

II. REMARKS

The Examiner is requested to reconsider the application in view of the foregoing amendment and the following remarks.

Respectfully, and generally for the reasons set forth below, the rejections and each ground therefore -- to the extent not rendered moot by the foregoing amendment -- are traversed. Generally, it is believed that the amendment adds no new matter.

In the Office Action, at pages 2-3, claims 1-20 have been rejected pursuant to 35 U.S.C. Sec. 112, second paragraph. The Examiner contends that the claims fail to particularly point out and distinctly claim the invention.

Claims 1-2 have been amended, such that the rejection is believed to be moot. It is respectfully submitted that the Examiner has not made out a proper case of non-enablement. For example, Figure 3 illustrates the roots growing ...essentially unimpeded from the piece into earth below the piece... and ...essentially unimpeded from the mats into earth below the mats as claimed. And if the Examiner's concern is directed instead to the composition of the piece itself, note that the items referenced in the Office Action (in the middle paragraph of page 3) are disclosed in the specification as biodegradable, and thus would not impede the roots, either. The Examiner has not made out a case of prima facie non-enablement in view of Figure 3.

In the Office Action, at pages 4-9, claims 1-20 have been rejected pursuant to 35 U.S.C. Sec. 102. The Examiner contends that the claims are anticipated by Kawamoto.

In response Applicant maintains that the cited art does not teach all claim elements. More particularly, Applicant maintains the contentions set forth in the pre-appeal brief review request, e.g., the Examiners concedes that "the manufactured multiple standardized units of Kawamoto are incapable of knitting with the earth below due to their containment means". Regardless of KSR, there can be no anticipation where the cited art is

incapable of meeting claim limitations, and the foregoing amendment further undermines the anticipation rejection. The Examiner has not made out a case of prima facie anticipation for these claims.

With respect to claim 21, Applicant maintains the view set out in the pre-appeal brief review request, to which the Examiner's attention is respectfully drawn. Because the Examiner has not shown that the garden in Kawamoto is the same as the claimed corporate logo, the Examiner has not made out a case of prima facie anticipation for this claim.

New claims 22-24 distinguish over the cited art for the same reasons, respectively, as set out above.

The application, as amended, is believed to be in condition for allowance, and favorable action is requested. If allowance is not believed to be appropriate upon reviewing the foregoing, prior to the next official action, an interview is requested.

If the prosecution of this case can be in any way advanced by a telephone discussion, the Examiner is requested to call the undersigned at (312) 240-0824. If a petition for extension of time or other petition is required, it is requested that this be deemed such.

APPLICANT CLAIMS SMALL ENTITY STATUS. The Commissioner is hereby authorized to charge any fees associated with the above-identified patent application or credit any overcharges to Deposit Account No. 50-0235.

Please direct all correspondence to the undersigned at the address given below.

Respectfully submitted,



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